

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUSTIN BRYANT,

Petitioner,

v.

JEFFREY A. UTTECHT,

Respondent.

CASE NO. C19-6189 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 9, and Petitioner Justin Bryant’s (“Bryant”) objections to the R&R, Dkt. 10.

On April 7, 2020, Judge Creatura issued the R&R recommending that the Court dismiss Bryant’s petition as time-barred. Dkt. 9. On April 19, 2020, Bryant objected. Dkt. 10.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 In this case, Bryant attacks the exhaustion requirement itself instead of whether he
2 factually exhausted his claims. Bryant fails to persuade the Court that either the statutory
3 exhaustion requirement or the binding precedent upholding and enforcing that
4 requirement violate the United States Constitution. Therefore, the Court having
5 considered the R&R, Bryant's objections, and the remaining record, does hereby find and
6 order as follows:

- 7 (1) The R&R is **ADOPTED**;
- 8 (2) Bryant's petition is **DISMISSED with prejudice** as time-barred;
- 9 (3) A Certificate of Appealability is **DENIED**; and
- 10 (4) The Clerk shall enter a JUDGMENT and close the case.

11 Dated this 22nd day of June, 2020.

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14 BENJAMIN H. SETTLE
United States District Judge